

**PHARMACY EXAMINING BOARD
MINUTES
MADISON, WI**

November 12, 2002

PRESENT: Cynthia Benning, R.Ph.; Michael Bettiga, R.Ph.; John Bohlman, R.Ph.; Georgina Forbes, Dan Luce, R.Ph.(left at 1:00 p.m.); Charlotte Rasmussen, and Susan Sutter, R.Ph.

STAFF PRESENT: Deanna Zychowski, Bureau Director; William Black, Legal Counsel; Gina York, Program Assistant; and Division of Enforcement staff for portions of the meeting.

GUESTS: Greg Primuth, Walgreen Company; Mark Zwaska, Oconomowoc; Jamie Statz-Paynter, Dean Pharmacy; Gina Besteman, Women's International; Tom Engels, PSW; and Carrie Boeckelman, UWMF.

CALL TO ORDER

Sue Sutter, Chair, called the meeting to order at 9:00 a.m. A quorum of seven members was present. Chair Sutter introduced Mr. Dan Trotter who is observing today while waiting for confirmation of his appointment.

AGENDA

Additions/Changes to the Agenda:

- ◆ Add under H. Active Practice
- ◆ Add under L. Practice Questions, Mr. Bohlman's e-mail
- ◆ Add under M. NABP Educational Workshops
- ◆ Add before Mc. in closed session, the Kobb letter
- ◆ Add Item P. Osco Drug deliberation of proposed stipulation

MOTION: Michael Bettiga moved, seconded by John Bohlman, to approve the agenda as amended. Motion carried unanimously.

SECRETARY OSCAR HERRERA

There was a Speakers Task Force on State Budget Review developed for state agencies to explain their role and responsibilities and ways to improve agency operations. Secretary Herrera updated the Board regarding the Department's appearance and feedback from the task force. It was indicated that the Department of Regulation and Licensing runs very efficiently. Secretary Herrera will be making budget requests for the next fiscal year.

There may be changes in the Department due to the new Governor-Elect, James Doyle. There is nothing definite at this time. If a change in management staff occurs, usually a transition team is

developed to work with current staff in those positions to ensure a smooth transfer of duties and responsibilities. Secretary Herrera will keep Boards abreast of any developments in this area.

MINUTES OF OCTOBER 8, 2002

Corrections to the Minutes:

- ◆ Page 6: Change under Commercial Nuclear Radiopharmacies, the first sentence after the word regarding delete rest of sentence and add “regulation of pharmacists in practice as a nuclear pharmacist.”
- ◆ Page 7: under Scope Statement include information of 2.02 (1) to reducing the number of days from 45 to 30.
- ◆ Page 8: under Controlled Substance Board delete “in December” and add regarding GHB/GBL.
- ◆ Page 9: under Mark Owens add to motion moved by Cynthia Benning and seconded by Dan Luce. Motion carried unanimously.
- ◆ Page 9: under Robert Guzzetta change the spelling of pamoline to pemoline.
- ◆ Page 10: under Mark Anderson change “with not” to “without”.

MOTION: Charlotte Rasmussen moved, seconded by Michael Bettiga, to approve the minutes of October 8, 2002, as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

KINDRED PHARMACY SERVICES (NEW BERLIN)

Attorney Jim Harris presented a proposed stipulation in the matter concerning Kindred Pharmacy Services. This matter will be deliberated on in closed session.

ANN E. MOORE, R.Ph. (OSHKOSH)

Attorney Jim Harris presented a proposed stipulation in the matter concerning Ann E. Moore. This matter will be deliberated on in closed session.

PHILLIPS HEALTH CARE CENTER PHARMACY (REEDSBURG) AND PATRICK J. COLLINS, R.Ph.

Attorney Jim Harris presented a proposed stipulation in the matter concerning Phillips Health Care Center Pharmacy and Patrick J. Collins, R.Ph. This matter will be deliberated on in closed session.

OSCO DRUG # 5020

Attorney Jim Harris presented a proposed stipulation in the matter concerning Osco Drug #5020. This matter will be deliberated on in closed session.

THOMAS J. PHILLIPS, R.Ph. (DELAFIELD)

Attorney Jim Harris presented a proposed stipulation in the matter concerning Thomas J. Phillips, R.Ph.. This matter will be deliberated on in closed session.

GREGORY J. TECHE, R.Ph. (JANESVILLE)

Attorney Jim Harris presented a proposed stipulation in the matter concerning Gregory J. Teche, R.Ph.. This matter will be deliberated on in closed session.

SUMMARY REPORT ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

A handout of pending cases was distributed. Nothing at this time needed further discussion.

REVIEW AND APPROVAL TO SUBMIT CLEARINGHOUSE AMENDMENT TO PHAR 2.02 (1) TO REDUCING FROM 45 TO 30 THE NUMBER OF DAYS THAT A COMPLETED APPLICATION MUST BE ON FILE

There was a brief discussion and review by the Board with the finalized changes to be made to this clearinghouse amendment.

MOTION: Dan Luce moved, seconded by Cynthia Benning, to send this scope statement forward with revisions as indicated to meet the June examination date. Motion carried unanimously.

MOTION: Dan Luce moved, seconded by Michael Bettiga, to start a second scope statement to allow taking the consultation exam 60 days prior to graduation. Motion carried unanimously.

REVIEW OF REVISIONS TO CENTRAL FILL AND APPROVAL TO SUBMIT TO LEGISLATURE

This topic was tabled by the Board until the next Board meeting and will be included in the January agenda packet.

REVIEW AND APPROVAL TO SUBMIT TO CLEARINGHOUSE AMENDMENT TO REPEAL PHAR 2.02(1)(C) REQUIRING PHOTOGRAPH OF APPLICANT

This was reviewed by the Board and a brief discussion occurred.

MOTION: John Bohlman moved, seconded by Michael Bettiga, to approve and submit the clearinghouse amendment to repeal Phar 2.02 (1) (c) as written. Motion carried unanimously.

REVIEW AND APPROVAL TO MODIFY PHAR 7.05 RELATING TO PRESCRIPTION RECORDS

The Board discussed at length Phar 7.05 related to prescription records and there were several concerns such as definitions, the voiding/invalidating prescriptions, handling of out-of-state transfers of prescriptions and how computerized systems are used for prescription recordkeeping.

MOTION: John Bohlman moved, seconded by Cynthia Benning, to have Mr. Black draft language for Phar 7.05 with limitations of transfers between the originating and transferring pharmacies on border prescriptions except for common central files on the computer. Motion carried unanimously.

FURTHER DISCUSSION OF COMMERCIAL NUCLEAR RADIOPHARMACIES

Susan Sutter and William Black shared with the Board that they were not able to obtain the information requested from the Department of Health and Family Services. Mr. Black will make another attempt to get the information from DHFS. This will be discussed further at the next Board meeting.

REVIEW OF IMPAIRED PROFESSIONAL PROCEDURES (IPP) FOR PHARMICISTS WITH BARBARA SHOWERS AND DARWIN TICHENOR

Barbara Showers and Darwin Tichenor appeared before the Board to review the IPP procedures and decision points originally set up in 1994 for the program. Dan Luce is currently the IPP Liaison for the Board. There were some concerns regarding the program such as the timeliness of cases pending, having a written case summary for each case, monitoring for compliance and a follow up with the Board liaison, and getting information to the liaison whether there are other criminal charges pending. Dan Luce will create a list of criteria for use with the IPP program.

MEETING WITH BARBARA SHOWERS TO DISCUSS MPJE/NABPLEX PROCESS AND EXAM RESULTS

Barbara Showers and Kris Hendrickson appeared before the Board regarding MPJE/NABPLEX process and exam results. The application process is being looked at to be streamlined and payments will go directly to MPJE/NABPLEX for test eligibility. A weekly authorization list from NABPLEX would have individuals listed who have applied to take the exam. Kris Hendrickson would review and approved those who are eligible. A discussion began regarding changing the application form again to address this issue.

The verification of examination results was discussed at length. There is an examination tracking program where data by other credentialing staff record exam score information. Kris Hendrickson uses this program to verify exam results and whether individuals can be licensed.

REVIEWING APPLICATION FORMS FOR DISTRIBUTORS AND MANUFACTURERS

The Board completed an in-depth form review of the Distributor's and Manufacturer's application forms with Kris Hendrickson. The coversheet of the checklist must be initialed rather than just placing an "X". Chair Susan Sutter, would like Alfred Hall to review the self-inspection forms portion and let her know of any changes or concerns before the next Board meeting.

ACTIVE PRACTICE OF PHARMACY WORKSHEET

This was discussed briefly and changes identified by the Board to Kris Hendrickson for revision and final review at the next Board meeting.

REVIEW OF BOARD POLICY REGARDING FOREIGN TRAINED PHARMACISTS AND DOCUMENTATION OF INTERNSHIP HOURS

This Board reviewed the memorandum from Kris Hendrickson regarding the Board's policy for foreign trained pharmacists. There was a lot of discussion regarding an internship program for these individuals. Bill Black and Ms. Hendrickson will work on revising the certification form. Also the tracking and monitoring for the internship participant can be done by Kris Hendrickson with follow up set at six month intervals.

DISCUSSION OF HOW TO HANDLE LATE RENEWALS FOR PHARMACIES, MANUFACTURERS AND DISTRIBUTORS

There was a lengthy discussion by the Board regarding how to handle late renewals. Some of the concerns expressed were the length of time involved, referral to DOE for practicing after a license has expired, possible consequences or just let them renew and pay a late fee.

MOTION: John Bohlman moved, seconded by Michael Bettiga, to set a time limit of 60 days for late renewals and those over the time limit the Board will be notified. Motion carried unanimously.

PRACTICE QUESTIONS

The Board reviewed the practice questions and directed legal counsel to respond.

NABP – MPJE TIME AND TASK SCHEDULE FOR PARTICIPATING BOARDS AND THE NABP EDUCATIONAL WORKSHOPS

There was much discussion regarding this activity. The NABP has scheduled three review times this year for item writing for tests. The Board person(s) involved must attend the meeting as a requirement by NABP. Cynthia Benning suggested attending the workshops as she felt these were extremely helpful. Dan Luce and Susan Sutter will be working together on this topic.

REPORT ON MEETING WITH DHSS ON DRAFTING RULES RELATED TO 440.142 ON REPORTING PUBLIC HEALTH EMERGENCIES

Informational. John Bohlman and Susan Sutter attended the meeting and will provide updates as they become available.

REPORT ON CONTROLLED SUBSTANCES BOARD

Cynthia Benning reported to the Board information from the 2002 Annual NASCSA meeting held on October 30, 2002. Topics discussed at this meeting were:

- 1) Drug Abuse Trends
- 2) E-commerce
- 3) Electronic Prescriptions for Controlled Substances
- 4) Drug Addiction Treatment Act (DATA)
- 5) Return of Controlled Substances from LTCF's
- 6) Central Fill (final rule will be out in about 3 mons.)
- 7) Drug Schedule Update
- 8) Prescription Monitoring Programs (PMPs)
- 9) Illegal Importation of Controlled Substances
- 10) Substance Abuse, Mental Health Services Administration (SAMHSA)
- 11) National Forensic Laboratory Information System (NFLIS)
- 12) HIPAA (to have a huge impact on pharmacies)
- 13) Regulators of Chemical Precursors (working with them on revising WI law)
- 14) Annuals Business (elections, resolutions, etc.)

Bill Black and Cynthia Benning will be working on SUA's for GHB/GBL/BDO and with Regulators of Chemical Precursors to revise Wisconsin law. There may be a possible scope statement forthcoming. Ms. Benning will keep the Board informed of any additional information.

VARIANCE REQUESTS

DEGEN BERGLUND PHARMACIES (LACROSSE)

This was referred to William Black, Legal Counsel for response.

QUAD/MED (PEWAUKEE)

This was referred to William Black, Legal Counsel for response.

AJOURN TO CLOSED SESSION

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to allow Dan Trotter to observe the Closed Session. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to adjourn to closed session pursuant to Wisconsin State Statutes 19.85(1)(a)(b)(f) and (g), to review applications; deliberate on requests for stay of suspensions,

modification of orders, reinstatements of stay of suspensions, proposed stipulations, case closings, and administrative warnings; review exam issues; and, consult with Legal Counsel. Roll Call Vote: Charlotte Rasmussen-yes; John Bohlman-yes; Michael Bettiga-yes; Dan Luce-yes; Cynthia Benning-yes; Georgina Forbes-yes; Susan Sutter-yes. Motion carried unanimously.

Open session recessed at 12:48 p.m.

RECONVENE TO OPEN SESSION

MOTION: Michael Bettiga moved, seconded by Dan Luce, to reconvene the meeting into Open Session at 3:48 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

STIPULATIONS

KINDRED PHARMACY SERVICES (NEW BERLIN)

MOTION: Charlotte Rasmussen moved, seconded by Cynthia Benning, to adopt the proposed Findings of Fact, Conclusions of Law, Order and Stipulation in the matter of Kindred Pharmacy Services. John Bohlman, Case Advisor abstained. Motion carried.

ANN E. MOORE, R.Ph. (OSHKOSH)

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to adopt the Proposed Findings of Fact, Conclusions of Law, Order and Stipulation in the matter of Ann E. Moore, R.Ph. John Bohlman, Case Advisor abstained. Motion carried.

PHILLIPS HEALTH CARE CENTER PHARMACY (REEDSBURG) PATRICK J. COLLINS, R.Ph.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to table to the next Board meeting when Dan Luce, Case Advisor is available for discussion. John Bohlman abstained. Motion carried.

OSCO DRUG (# 5020)

MOTION: John Bohlman moved, seconded by Charlotte Rasmussen, to adopt the proposed Findings of Fact, Conclusions of Law, Order and Stipulation in the matter of Osco Drug, # 5020. Michael Bettiga, Case Advisor abstained. Motion carried.

THOMAS J. PHILLIPS, R. Ph. (DELAFIELD)

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to adopt with the modification indicated by the Board, the Proposed Findings of Fact, Conclusions of Law, Order and Stipulation in the matter of Thomas J. Phillips, R.Ph. and to grant Deanna Zychowski permission to sign off on the finalized order if Thomas Phillips agrees to the change in the stipulation and order. Motion carried unanimously.

GREGORY J. TECHE, R.Ph. (JANESVILLE)

MOTION: Charlotte Rasmussen moved, seconded by Cynthia Benning, to adopt the Proposed Findings of Fact, Conclusions of Law, Order and Stipulation in the matter of Gregory J. Teche, R.Ph. John Bohlman, Case Advisor abstained. Motion carried.

MOTION: John Bohlman moved, seconded by Cynthia Benning, to refer to DOE to forward to law enforcement officials for follow up and to begin the legal process in the matter of Gregory J. Teche, R.Ph. Motion carried unanimously.

REQUESTS APPEARANCE TO DISCUSS COMPUTATION PROCESS

MITCHELL J. BONJEAN, R.Ph.

MOTION: John Bohlman moved, seconded by Cynthia Benning, to grant Mitchell J. Bonjean, R.Ph. an unlimited license and remove the limitation from the Board order. Motion carried unanimously.

APPEARANCE AND REQUEST FOR REINSTATMENT OF THREE MONTH STAY OF SUSPENSION

LUIGI MINCELI, R.Ph.

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to grant reinstatement of a three-month stay to Luigi Minceli, R.Ph. Motion carried unanimously.

APPEARANCE AND REQUEST FOR REINSTATMENT OF LICENSE AND THREE MONTH STAY OF SUSPENSION

GERALD JENNINGS, R.Ph.

Mr. Jennings will appear before the Board at their next meeting.

REVIEW OF UNANNOUNCED OBSERVATION

JAMES GROVE, R.Ph.

Mr. Grove will be send a letter requesting his work schedule and where he is working. The Board needs to be informed of information received with a six month follow up.

REQUESTS RELATING TO FULL LICENSURE

DUANE B. ASP, R.Ph.

MOTION: John Bohlman moved, seconded by Cynthia Benning to deny full licensure and modify the board order to remove the limitation regarding the manager-in-charge for Duane B. Asp, R. Ph. Motion carried unanimously.

REQUESTS RELATING TO STAYS OF SUSPENSIONS AND/OR MODIFICATIONS

ROGER IVERSON, R.Ph.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to grant Roger Iverson a three-month stay of suspension. Motion carried unanimously.

DAVID KLEINGARTNER, R.Ph.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant David Kleingartner a three-month stay of suspension. Motion carried unanimously.

JANET KRUEGER, R.Ph.

MOTION: Michael Bettiga moved, seconded by John Bohlman, to grant Janet Krueger a three-month stay of suspension. Motion carried unanimously.

MARILYN KUHRT, R.Ph.

MOTION: Georgina Forbes moved, seconded by Cynthia Benning, to grant Marilyn Kuhrt a three-month stay of suspension. Motion carried unanimously.

DONALD LEETZ, R.Ph.

MOTION: John Bohlman moved, seconded by Michael Bettiga, to grant Donald Leetz a three-month stay of suspension. Motion carried unanimously.

LANCE LUNDSTAD, R.Ph.

MOTION: John Bohlman moved, seconded by Charlotte Rasmussen, to grant Lance Lundstad a three-month stay of suspension. Motion carried unanimously.

THOMAS PIRE, R.Ph.

MOTION: John Bohlman moved, seconded by Charlotte Rasmussen, to grant Thomas Pire a three-month stay of suspension. Motion carried unanimously.

ADMINISTRATIVE WARNING

OCONOMOWOC MEMORIAL HOSPITAL PHARMACY

MOTION: John Bohlman moved, seconded by Georgina Forbes, to issue an administrative warning for Oconomowoc Memorial Hospital Pharmacy. Motion carried unanimously.

MOTION: John Bohlman moved, seconded by Charlotte Rasmussen, to close the case regarding the pharmacist in **02 PHM 024** for prosecutorial discretion . Motion carried unanimously.

REVIEW OF BOARD ORDER AND POSSIBLE VIOLATION

JAMES MEYER, R.Ph.

MOTION: John Bohlman moved, seconded by Georgina Forbes, to rescind the stay of suspension for James Meyer. Motion carried unanimously.

CASE CLOSINGS

MOTION: Michael Bettiga moved, seconded by John Bohlman, to close complaint **02 PHM 057**, for prosecutorial discretion. Motion carried unanimously.

MOTION: Charlotte Rasmussen moved, seconded by Cynthia Benning, to close complaint **02 PHM 088**, for no violation. John Bohlman abstained. Motion carried.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to close complaint **01 PHM 076** regarding M.T., for no violation. Motion carried unanimously.

EXAMINATION ISSUES

CASEY BROWN

The Board met with Casey Brown after the meeting to validate the exam results.

REGULATORY DIGEST

A future article regarding the responsibilities of being a distributor will be written.

ADJOURNMENT

MOTION: Michael Bettiga moved, seconded by John Bohlman, to adjourn the meeting. Motion carried unanimously.

Meeting adjourned at 4:25 p.m.